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Summary record (partial)* of the 3520th meeting
Held at the Palais Wilson, Geneva, on Monday, 23 July 2018, at 3 p.m.

Chair: Mr. Shany

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The discussion covered in the summary record began at 4.15 p.m.

Organizational and other matters, including the adoption of the report of the Working Group on Communications (*continued*)

Methods of work (*continued*)

Report of the working group on the simplified reporting procedure

1. **Mr. Heyns**, summarizing the contents of the report of the working group on the simplified reporting procedure, said that the Committee had adopted the simplified procedure in 2009 as part of a pilot project, and States parties had been given the option to use the procedure starting in 2010. The working group had been asked to consider whether the procedure should be made a permanent feature of the Committee's working methods. The working group was leaning towards recommending that it should be, but the final decision would be more complex than a simple "yes" or "no".

2. The Committee had been the second treaty body to adopt the simplified procedure, which was now being used by nearly all the other treaty bodies. It had therefore become time to take stock of the experiment. The working group's report drew on information about the experiences of States parties that had reported up to 31 December 2017.

3. Seventeen States parties that had reported using both the standard and the simplified procedures had been asked to compare their experiences. The working group had specifically wished to know how the workloads under the two procedures compared and whether the simplified procedure had sharpened the focus of the reporting exercise. A number of other States parties had been asked why they had not availed themselves of the opportunity to use the new procedure. National human rights institutions and non-governmental organizations (NGOs) had also been asked for their opinion of the procedure. In addition, the secretaries of the treaty bodies had provided feedback on the impact of the change from one procedure to the other.

4. The words "more focused" had appeared again and again in documents dealing with the simplified reporting procedure. In the view of the working group, a more focused system would likely entail less work and lead to better results, and it had sought evidence to determine whether or not that was the case. The challenge, of course, was to find a way to reduce the workload without affecting the quality of the documentation.

5. It was perhaps worth reminding Committee members that the difference between the standard procedure and the simplified procedure was not simply that the former entailed the preparation of three documents in advance of a State party's appearance before the Committee, while the latter required the preparation of only two. There was also a difference in their character, inasmuch as the replies to the list of issues prior to reporting was, from the outset, more focused.

6. Some treaty bodies had adopted the simplified procedure primarily with a view to reducing their workloads, whereas others had done so to improve the focus of their dialogues with States parties. The Committee's aim was to do both. The simplified procedure was not used in the same way by every treaty body. Some, for instance, did not offer that option to States parties that had not yet submitted their initial reports. At some point, further consideration would have to be given to whether it was necessary to align practices across the treaty body system.

7. The Committee against Torture had considered 68 reports under the new system, whereas the Human Rights Committee had examined 24. Forty-four States parties to the Covenant had formally accepted the simplified procedure, but some had not yet reported thereunder. In 2016, nine reports had been submitted to the Committee under the simplified procedure and seven under the standard procedure. In 2017, the corresponding numbers had been four and six. In the future, the majority of the reports were likely to be submitted under the simplified procedure.

8. In the 1960s and 1970s, a broad approach had been helpful, not least because information on the situation in a given State party had not always been readily available. At present, rights were clearly defined, information was more readily available, and there were

nine major human rights treaties, not to mention any number of additional human rights reporting obligations. A sharper focus was thus necessary.

9. Requiring one document from a State party rather than two had clearly lightened the workload for States parties. Word counts had fallen, but it was difficult to disentangle the effect of the move to the simplified reporting procedure from that of General Assembly resolution 68/268, under which word limits had been introduced. In addition, it was not entirely clear that word counts were a good proxy for workloads.

10. For the Committee, however, the new system had apparently entailed more work rather than less. Under the standard system, the Committee had fresh State party reports on which to base its lists of issues. Under the new procedure, there were no such reports. Information was instead drawn from a number of sources. Nonetheless, approximately 15 person-days had been allocated by the Office of the United Nations High Commissioner for Human Rights (OHCHR) for drafting lists of issues, regardless of whether they were drawn up under the standard procedure or prior to reporting.

11. Most of the States parties, NGOs and national human rights institutions that had been consulted by the working group were of the view that the simplified procedure had led to improvements in quality. The information that was exchanged tended to be more relevant, and there was also less of a likelihood that the Committee would be unable to study the information provided to it as thoroughly as it wished. Under the new procedure, the interactive dialogue was driven largely by the list of issues.

12. In some respects, the simplified procedure could take more time to complete than the standard procedure. The problem in that regard was that the list of issues might be less relevant by the time that the State party in question finally appeared before the Committee. That was not an insurmountable problem, however, as new issues were generally raised as necessary. The number of questions asked of States parties appeared to be the same under the two systems.

13. More generally, the Committee should consider how the simplified reporting procedure contributed to treaty body strengthening, how it might fit in with the 2020 review of the human rights treaty body system and whether it was compatible with the possibility of holding meetings outside Geneva and New York. It should also be kept in mind that States parties had heavy human rights reporting burdens. In a sense, the Committee was in competition with other bodies, and its procedures should therefore be as streamlined as possible.

14. It appeared that there would be no turning back from the simplified reporting procedure, as it seemed to have become firmly established. The responses from States parties, NGOs and national human rights institutions had suggested that the move to the new procedure was a welcome one. In its concluding recommendations, the working group had stated that the simplified procedure should be formally made a permanent feature of the Committee's working methods, that it should be offered to all States parties, including for their initial reports, and that a campaign should be conducted to raise awareness of the new procedure and encourage States parties to avail themselves of it.

15. **The Chair** said that the use of the simplified reporting procedure made particular sense given that the time allotted to the Committee for its dialogue with each State party had been reduced from three meetings to two. However, as the simplified procedure placed a heavier workload on the Committee, it would be useful if the secretariat could provide specific time and cost estimates for drafting a list of issues prior to reporting compared to an ordinary list of issues.

16. The working group's report would be presented at the Committee's informal meeting with States parties in October 2018 and would also be circulated among the other Committees. He suggested that the report should figure as one of the Committee's contributions to the 2020 review of the treaty body system, in which case it should be translated into the other working languages. To the extent possible, it should also be incorporated into the Committee's annual report to the General Assembly.

17. **Mr. Politi** said that the simplified reporting procedure appeared to be an improvement, as it facilitated the Committee's task of identifying and exploring

shortcomings in States parties' implementation of the Covenant. Members should consider how the Committee could encourage as many States parties as possible to adopt the procedure. At the same time, the Committee would need to secure sufficient financing and resources so that the extra work that would be demanded of the secretariat could be accommodated. While he approved of the idea of limiting the number of issues prior to reporting to around 25, he was not in favour of trying to standardize the issues raised, as national contexts varied too widely. A system of reminders could prove useful for helping to ensure that States parties did not fall behind schedule in the reporting process.

18. **Mr. Ben Achour** said that, while he supported the idea of the simplified reporting procedure, the Committee must consider if and how it was compatible with article 40 of the Covenant, which spoke only of "reports", not lists of issues or replies. As the Committee had previously worked on the basis of a common core document, in addition to a report, a list of issues and replies to those issues, he wondered whether core documents would continue to be prepared and used. The Committee should decide whether the simplified procedure would become an integral part of its working methods or would remain optional. In the latter case, it hardly seemed necessary to incorporate it into the Committee's rules of procedure.

19. Although the simplified reporting procedure facilitated the work of the rapporteurs, it greatly increased the workload of the secretariat. The individuals within the secretariat who prepared the lists of issues must therefore possess the requisite qualifications, experience and knowledge, as the rapporteurs relied on their research and preparatory work.

20. **Mr. Fathalla** said that, as the Committee had already permitted the use of the simplified reporting procedure on numerous occasions, its compatibility with article 40 need not be called into question. While he did not object to the proposal to limit the issues included on lists to around 25, he proposed that the secretariat should initially prepare a standard, comprehensive list of perhaps 50 or 60 issues from which the Committee could select the most pertinent ones. While that would impose a considerable workload on the secretariat initially, it would make work faster and easier in the future. If members were sufficiently convinced that the simplified reporting procedure made a contribution to the Committee's work, then a decision should be taken to institutionalize the practice, and other Committees should be informed of that decision.

21. **Mr. de Frouville** said that he was convinced that the simplified reporting procedure would make the Committee's task of overseeing the implementation of the Covenant both more efficient and more effective. Moreover, the formal adoption of the procedure would contribute to the success of more general proposals that had been made in the name of treaty body strengthening, such as the restructuring of lists of issues and the adoption of a global calendar.

22. The widespread use of the simplified reporting procedure by States parties would render their common core documents more important than ever. The Committee should consider revising the guidelines on core document preparation and should urge States parties to keep their core documents current. As article 40 of the Covenant required States parties to submit an initial report, it was probably in the Committee's interests to allow the simplified procedure only for subsequent reports.

23. It would be important to raise the issue of secretariat employees' qualifications and experience with OHCHR. Lastly, the Committee on Enforced Disappearances had not adopted the simplified reporting procedure because the International Convention for the Protection of All Persons from Enforced Disappearance did not provide for periodic reports but rather for an initial report and the possibility of requesting further information later. In effect, the system already in place resembled the simplified reporting procedure.

24. **Mr. Santos Pais** said that article 40 did not pose an obstacle to the use of the simplified procedure. The written replies of States parties could be considered to constitute a report. The Committee should adapt to the modern era by favouring brevity and concision while a comprehensive initial report was not necessarily the solution for everything, it did oblige the State party to reflect on its human rights protection system as a whole. Conversely, by answering only specific questions, a State might lose sight of the overall

picture. In order to circumvent that obstacle, he proposed making the first list of issues for a State party more comprehensive than subsequent lists, which could then be more focused.

25. **Mr. Heyns** said that article 40 of the Covenant did not distinguish between initial reports and subsequent reports, so the Committee was on solid legal ground. The Committee could also make it clear that it considered replies to lists of issues to constitute a report. In order to encourage more States parties to adopt the simplified procedure, he proposed ensuring that a general announcement was visible on the website. The Committee should also continue to use its concluding observations to invite States parties to adopt the procedure. A meeting could be held with States parties that expressed an interest in moving to the simplified procedure in order to explain the implications and allay any concerns.

26. Core documents were technically considered part of States parties' reports and would continue to form an essential part of the full picture of human rights observance in a country. While simplified reporting should remain optional, the idea was to ensure that it was routinely offered to States parties as an option. It was worth bearing in mind that a list of issues was drafted for every State party, regardless of which reporting method it chose. When States parties submitted comprehensive self-evaluations of their observance of the Covenant, the secretariat then had to devote a great deal of time to working through those reports to pinpoint the most salient issues. He agreed that it would be useful to see comparative statistics on how many hours it took to draft the lists of issues corresponding to each of the two reporting methods. Under the procedure that had been envisaged for the preparation of the lists, a large number of issues would be identified and then perhaps 20 would be selected as the most relevant. The Committee should avoid a situation whereby issues were selected from a pre-existing standardized list, however, any such form of automation would undermine the value of a critical dialogue. Lastly, when seeking to align procedures with other Committees, it was important to look at the situation from the point of view of States parties, which were often obliged to report to numerous bodies at short intervals.

27. **The Chair** said that the adoption of a global calendar would push the Committee towards a more widespread adoption of the simplified reporting procedure, as the success of the global calendar depended on States parties' meeting their deadlines. States parties that failed to report on time would receive a list of issues in the absence of a report, meaning that their replies would most likely become their report. The Committee could consider making the simplified procedure the default procedure and allowing States parties to opt out of it if they so desired.

28. He would now like to invite the Committee members to express their views on the recommendations that should be made in the final version of the report. Any contested recommendations would be marked down as such in the final version.

29. **Mr. Santos Pais** said that the Committee should mount an ongoing campaign to encourage States parties to adopt the simplified reporting procedure and that a recommendation to that effect should be included in the final report.

30. **Mr. de Frouville** said that if States parties were required to opt out of the simplified reporting procedure, rather than to opt in, then it might be redundant to recommend that the Committee should campaign to encourage States parties to adopt the procedure.

31. **Ms. Cleveland** said that, since the adoption of a global reporting calendar might lead more States parties to employ the simplified reporting procedure, perhaps the report should merely recommend that the simplified reporting procedure should be promoted, without mentioning that the Committee could not require States to use it.

32. **The Chair** said that the report could indicate that the Committee was not of the view that all States should follow the simplified reporting procedure. Making the simplified procedure the default form of reporting would encourage States parties to use it, but they would still be able to opt out. That said, the Committee did have the authority to indicate to States parties how they should prepare their reports, as it had done when it published general comment No. 2 on reporting guidelines.

33. **Mr. Heyns** said that he supported the idea of allowing States parties to opt out of the simplified reporting procedure. The report should also indicate that the Committee should

engage in a campaign to promote the simplified reporting procedure, however, as the transition could take some time.

34. **The Chair** suggested that the working group could recommend that the Committee should take steps to encourage States parties to adopt the simplified reporting procedure, including through active campaigning, without precluding other steps that might be taken in that regard.

35. **Mr. de Frouville**, supported by **the Chair**, said that the working group should not recommend that the simplified procedure should be offered to all States parties, irrespective of whether they had submitted an initial report or whether their reports were overdue. The initial list of issues should generally be compiled on the basis of a comparison between the information provided by the State party and contrasting information from other sources. The Committee should continue to be able to send a list of issues in the absence of an initial report, but only as an exception to the rule.

36. **Mr. Santos Pais** said that, if the working group were to recommend that a standard list of questions prior to reporting should be prepared, it should also recommend that the standard list should be comprehensive and should be regularly updated so that the questions that were ultimately chosen could be made country-specific. Furthermore, it would be interesting to keep track of how often each question was asked of each country, as that could serve as a means of monitoring the Committee's methods of work.

37. **Ms. Pazartzis** said that she was concerned about excessive standardization. The questions raised in each list of issues should address the specific situation in the State party under review. Some of the Committee's questions had already become somewhat standardized, which meant that on some occasions pertinent issues went unraised.

38. **Ms. Cleveland** said that she agreed with Ms. Pazartzis. Perhaps the best way to compile a list of issues, whether it was to be sent under the simplified or standard reporting procedure, would be to select questions from a comprehensive compendium of all possible issues, and then to fine-tune the list by taking account of the priority issues in the country under review and the reviews of other treaty bodies.

39. **Mr. Politi** said that he agreed that lists of issues must be country-specific. The internal process of the Committee could include the drafting of a standard list of issues prior to reporting, but that list must be adjusted to the unique circumstances of each State.

40. **Mr. Koita** said that, if initial reports were no longer required, then the only way in which States parties could raise their own concerns would be through their common core documents, which were not regularly updated. Given that the Committee was supposed to engage in a dialogue with States parties, due account should be taken of the issues that the States parties themselves wished to highlight.

41. **Ms. Brands Kehris**, supported by **the Chair**, said that the recommendations made in the report should be divided into subsections based on whether they were addressed to the Committee, OHCHR or the States parties.

42. **Mr. de Frouville** said that, in its report, the working group should refrain from proposing that a maximum number of questions should be set for every list of issues prior to reporting. The implications of such a recommendation went beyond the scope of the mandate of the working group on the simplified reporting procedure.

43. **Ms. Pazartzis** said that the Committee would need to have a general discussion on the idea of limiting the number of questions to be included in each list of issues prior to reporting before any proposal in that regard was made. Perhaps the report could simply indicate that a limit should be set, without specifying what the limit should be.

44. **The Chair** said that the Committee should consider whether it was desirable to mention limiting the number of issues to be included in the lists in a report that would be widely circulated, since the Committee might wish to avoid opening the way for proposals for an excessive limitation of the number of questions.

45. **Mr. Santos Pais** said that, in its report, the working group should recommend that OHCHR should explore ways to ensure that there were no undue delays in receiving or scheduling reports submitted under the simplified reporting procedure.

46. **The Chair** said that it was more important for the States parties that opted into the simplified reporting procedure to have their implementation of the Covenant reviewed according to a precise schedule. However, it was true that problems could arise if States parties failed to report on time.

47. **Mr. Santos Pais**, supported by **the Chair**, said that the working group should recommend that all possible steps should be taken to ensure that institutional memory was retained.

48. **Ms. Pazartzis** said that the secretariat's methods of work were not dictated by the Committee. Any recommended changes to its practices should be framed quite carefully.

49. **Mr. Koita** said that the quality of the Committee's work was directly influenced by the level of expertise of the staff of the secretariat. The mobility policy that OHCHR had pursued had profoundly destabilized the work of the Committee by making it impossible for the Committee to form long-term working relationships with individual members of the staff.

50. **Mr. Muhumuza** said that he agreed with Mr. Koita. The report should indicate how the staff mobility policy had affected the Committee's work. A mobility policy should not be pursued for its own sake. Institutional memory should be maintained insofar as possible.

51. **Ms. Pazartzis** said that the working group should avoid recommending that States parties should keep their common core documents up to date because that issue was common to the entire treaty body system and should be resolved by OHCHR. Perhaps the report should also avoid explicitly tying the issue of funding to the simplified reporting procedure, as additional funding was also needed in many other areas.

52. **Ms. Cleveland** said that the report should emphasize the importance of increasing funding. It should be made clear to States parties that the success of the simplified reporting procedure was dependent on an increase in the resources available to the secretariat.

53. **Mr. Heyns** said that the report should make the point that an increase in funding would be an investment. Additional resources for the secretariat would translate into less work for States parties.

54. **The Chair** said that the Bureau would consider how best to accommodate the Committee members' views on the recommendations to be made in the working group's final report at a subsequent meeting.

The meeting rose at 6.05 p.m.